

shall report all data for each institution on one form within 90 days of the completion of the data collection for all key elements for that institution. States shall ensure that all key element data for an institution is collected during a 12-month period.

(r) *WIC program information.* State agencies must provide information on the importance and benefits of the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) and WIC income eligibility guidelines, to participating institutions. In addition, the State agency must ensure that:

(1) Participating family day care homes and sponsored child care centers receive this information, and periodic updates of this information, from their sponsoring organizations or the State agency; and

(2) The parents of enrolled children also receive this information.

[47 FR 36527, Aug. 20, 1982]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 226.6, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

§ 226.7 State agency responsibilities for financial management.

(a) This section prescribes standards of financial management systems in administering Program funds by the State agency and institutions.

(b) Each State agency shall maintain an acceptable financial management system, adhere to financial management standards and otherwise carry out financial management policies in accordance with 7 CFR part 3015, 7 CFR part 3016 and 7 CFR part 3019, as applicable. State agencies or FNSRO's, where applicable, shall also have a system in place for monitoring and reviewing the institutions' documentation of their nonprofit status to ensure that all Program reimbursement funds are used: (1) Solely for the conduct of the food service operation; or (2) to improve such food service operations, principally for the benefit of the participants.

(c) *Management evaluations and audits.* State agencies shall provide FNS with full opportunity to conduct management evaluations (including visits

to institutions and facilities) of all operations of the State agency under the Program and shall provide OIG with full opportunity to conduct audits (including visits to institutions and facilities) of all operations of the State agency under the Program. Within 60 calendar days of receipt of each management evaluation report, the State agency shall submit to FNSRO a written plan for correcting serious deficiencies, including specific timeframes for accomplishing corrective actions and initiating follow-up efforts. If a State agency makes a showing of good cause, however, FNS may allow more than 60 days in which to submit a plan. Each State agency shall make available its records, including records of the receipt and expenditure of funds, upon request by FNS or OIG. OIG shall also have the right to make audits of the records and operation of any institution.

(d) *Reports.* Each State agency shall submit to FNS the final Report of the Child and Adult Care Food Program (FNS 44) for each month which shall be limited to claims submitted in accordance with § 226.10(e) and which shall be postmarked and/or submitted no later than 90 days following the last day of the month covered by the report. States shall not receive Program funds for any month for which the final report is not submitted within this time limit unless FNS grants an exception. Upward adjustments to a State agency's report shall not be made after 90 days from the month covered by the report unless authorized by FNS. Downward adjustments shall always be made, without FNS authorization, regardless of when it is determined that such adjustments are necessary. Adjustments shall be reported to FNS in accordance with procedures established by FNS. Each State agency shall also submit to FNS a quarterly Financial Status Report (SF-269) on the use of Program funds. Such reports shall be postmarked and/or submitted no later than 30 days after the end of each fiscal year quarter. Obligations shall be reported only for the fiscal year in which they occur. A final Financial Status Report for each fiscal year shall be postmarked and/or submitted to FNS

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within 120 days after the end of the fiscal year. FNS shall not be responsible for reimbursing unpaid Program obligations reported later than 120 days after the close of the fiscal year in which they were incurred.

(e) *Annual plan.* Each State shall submit to the Secretary for approval by August 15 of each year an annual plan for the use of State administrative expense funds, including a staff formula for State personnel.

(f) *Rate assignment.* Each State agency must require institutions (other than emergency shelters, at-risk afterschool care centers, and sponsoring organizations of emergency shelters, at-risk afterschool care centers, or day care homes) to submit, not less frequently than annually, information necessary to assign rates of reimbursement as outlined in § 226.9.

(g) *Budget approval.* The State agency must review institution budgets and must limit allowable administrative claims by each sponsoring organization to the administrative costs approved in its budget. The budget must demonstrate the institution's ability to manage Program funds in accordance with this part, FNS Instruction 796-2 ("Financial Management in the Child and Adult Care Food Program"), parts 3015, 3016, and 3019 of this title, and applicable Office of Management and Budget circulars. Sponsoring organizations must submit an administrative budget to the State agency annually, and independent centers must submit budgets as frequently as required by the State agency. Budget levels may be adjusted to reflect changes in Program activities. For sponsoring organizations of centers, the State agency is prohibited from approving the sponsoring organization's administrative budget, or any amendments to the budget, if the administrative budget shows the Program will be charged for administrative costs in excess of 15 percent of the meal reimbursements estimated to be earned during the budget year. However, the State agency may waive this limit if the sponsoring organization provides justification that it requires Program funds in excess of 15 percent to pay its administrative costs and if the State agency is convinced that the institution will have adequate

funding to provide meals meeting the requirements of § 226.20. The State agency must document all waiver approvals and denials in writing, and must provide a copy of all such letters to the appropriate FNSRO.

(h) *Start-up and expansion payments.* Each State agency shall establish procedures for evaluating requests for start-up and expansion payments, issuing these payments to eligible sponsoring organizations, and monitoring the use of these payments.

(i) *Advance payments.* Each State agency shall establish procedures for issuing advance payments by the first day of each month and comparing these payments with earned reimbursement on a monthly basis. The State agency shall maintain on file a statement of the State's law and policy governing the use of interest earned on advanced funds by sponsors, institutions, child care facilities and adult day care facilities.

(j) *Recovery of overpayments.* Each State agency shall establish procedures to recover outstanding start-up, expansion and advance payments from institutions which, in the opinion of the State agency, will not be able to earn these payments.

(k) *Claims processing.* Each State agency shall establish procedures for institutions to properly submit claims for reimbursement. Such procedures must include State agency edit checks, including but not limited to ensuring that payments are made only for approved meal types and that the number of meals for which reimbursement is provided does not exceed the product of the total enrollment times operating days times approved meal types. All valid claims shall be paid within 45 calendar days of receipt. Within 15 calendar days of receipt of any incomplete or incorrect claim which must be revised for payment, the State agency shall notify the institution as to why and how such claim must be revised. If the State agency disallows partial or full payment for a claim for reimbursement, it shall notify the institution which submitted the claim of its right to appeal under § 226.6(k). State agencies may permit disallowances to be appealed separately from claims for reimbursement.

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(l) *Participation controls.* The State agency may establish control procedures to ensure that payment is not made for meals served to participants attending in excess of the authorized capacity of each independent center, adult day care facility or child care facility.

(m) *Financial management system.* Each State agency shall establish a financial management system in accordance with 7 CFR part 3015, 7 CFR part 3016 and 7 CFR part 3019, as applicable, and FNS guidance to identify allowable Program costs and establish standards for institutional recordkeeping and reporting. These standards shall (1) prohibit claiming reimbursement for meals provided by a participant's family, except as authorized by § 226.18(e) and (2) allow the cost of meals served to adults who perform necessary food service labor under the Program, except in day care homes. The State agency shall provide guidance on financial management requirements to each institution.

[47 FR 36527, Aug. 20, 1982, as amended at 48 FR 21530, May 13, 1983; Amdt. 5, 49 FR 18988, May 4, 1984; 50 FR 8580, Mar. 4, 1985; 50 FR 26975, July 1, 1985; 53 FR 52589, Dec. 28, 1988; Amdt. 22, 55 FR 1378, Jan. 14, 1990; 63 FR 9728, Feb. 26, 1998; 67 FR 43490, June 27, 2002; 69 FR 53542, Sept. 1, 2004; 71 FR 5, Jan. 3, 2006; 71 FR 39518, July 13, 2006; 72 FR 41606, July 31, 2007]

§ 226.8 Audits.

(a) Unless otherwise exempt, audits at the State and institution levels must be conducted in accordance with Office of Management and Budget circular A-133 and the Department's implementing regulations at part 3052 of this title. State agencies must establish audit policy for for-profit institutions. However, the audit policy established by the State agency must not conflict with the authority of the State agency or the Department to perform, or cause to be performed, audits, reviews, agreed-upon procedures engagements, or other monitoring activities.

(b) The funds provided to the State agency under § 226.4(j) may be made available to institutions to fund a portion of organization-wide audits made in accordance with part 3052 of this title. The funds provided to an institution for an organization-wide audit

must be determined in accordance with § 3052.230(a) of this title.

(c) Funds provided under § 226.4(j) may be used by the State agency to conduct program-specific audits of institutions not subject to organization-wide audits, or for which the State agency considers program specific audits to be needed. The State agency may use any funds remaining after all required program-specific audits have been performed to conduct administrative reviews or agreed-upon procedures engagements of institutions.

(d) Funds provided under § 226.4(j) may only be obligated during the fiscal year for which those funds are allocated. If funds provided under § 226.4(i) are not sufficient to meet the requirements of this section, the State agency may then use available State administrative expense funds to conduct audits, provided that the State agency is arranging for the audits and has not passed the responsibility down to the institution.

(e) In conducting management evaluations, reviews, or audits in a fiscal year, the State agency, FNS, or OIG may disregard an overpayment if the overpayment does not exceed \$600. A State agency may establish, through State law, regulation or procedure, an alternate disregard threshold that does not exceed \$600. This disregard may be made once per each management evaluation, review, or audit per Program within a fiscal year. However, no overpayment is to be disregarded where there is substantial evidence of violations of criminal law or civil fraud statutes.

(f) While OIG shall rely to the fullest extent feasible upon State sponsored audits, OIG may, whenever it considers necessary:

- (1) Make audits on a statewide basis;
- (2) Perform on-site test audits;
- (3) Review audit reports and related working papers of audits performed by or for State agencies.

(g) State agencies are not required to provide a hearing to an institution for State actions taken on the basis of a Federal audit determination. If a State agency does not provide a hearing in such situations, FNS will provide a